

**PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE**

**POST LEGISLATIVE SCRUTINY - FREEDOM OF INFORMATION (Scotland) ACT 2002**

**SUBMISSION FROM : ABERDEEN CITY COUNCIL**

**In your view, what effects has the Freedom of Information (Scotland) Act 2002 (FOISA) had, both positive and negative?**

In our view, the Freedom of Information (Scotland) Act 2002 has had a positive effect in making Local Authorities more aware of the need for controlled and accurate record keeping. It has also highlighted the importance that having the ability to access information has on the public and the impact that poor record keeping or lack of record keeping can have.

Another positive effect is that it has encouraged Local Authorities to publish data. It is felt that proactive publication could be encouraged further if legislation could include more guidance on the promotion, frequency and approaches to publication. The guidance for the publication of Freedom of Information Requests is less specific than Environmental Information Requests, which is clearer.

The demand that some applicants place on the Local Authority through Freedom of Information Requests has had a negative effect. For example, some applicants do not appear to use the process as a means accessing information they are interested in, but instead to place excessive demands on the Local Authority. Legislation does not allow for Freedom of Information Requests to be incorporated into the unacceptable actions policy, irrespective of how the applicant corresponds with us.

Another unintended consequence of FOISA on the Local Authority is the resulting increased demand from commercial, press and media applicants. Whilst we completely understand the intent of Freedom of Information and the transparency it provides, the reality is that the demand, in some instances, is diverting effort from the delivery of services.

**Have the policy intentions of FOISA been met and are they being delivered? If not, please give reasons for your response.**

We feel that the intentions are being met. There is scope to further encourage the proactive disclosure of information by Scottish public authorities, as explained above.

**Are there any issues in relation to the implementation of and practice in relation to FOISA? If so, how should they be addressed?**

While there are no issues that we have identified, there are areas where the legislation could be strengthened to support the implementation. For example, in relation to the publication of data.

The Scottish Information Commissioner is effective in enforcing compliance with FOISA. It may be of benefit to public authorities if the Scottish Information Commissioner could play a more supportive role in relation to the application of FOISA and provide guidance on practical approaches. From experience, the support provided is limited in comparison to an organisation such as the Scottish Public Services Ombudsman.

**Could the legislation be strengthened or otherwise improved in any way? Please specify why and in what way.**

Vexatious requests could be strengthened to relate to the person and not just to the request, as explained above. There could be more clarity in the law on what is vexatious and how Local Authorities could apply it effectively.

Another potential improvement would be for the legislation to allow public authorities to enquire about the purpose of request which could help us to provide the information required more effectively.

Overall, the exemption criteria are clear to apply. However, the 'prejudice to effective conduct of public affairs exemption (Section 30)' has caused some challenges and so some further clarification on how and when to apply this exemption would be helpful.

**Are there any other issues you would like to raise in connection with the operation of FOISA?**

An opportunity to move away from the Model Publication Scheme would be welcomed. Consideration could be made to how people currently access information rather than the Model Publication Scheme approach which seems outdated. The current approach is not future proof and does not take into account how people expect to access information.

Also, any extension of FOI legislation in the future must come with appropriate financial support to local authorities to recognise the additional cost it puts on councils.